

HOUSE BILL 2846

By Tidwell

AN ACT to amend Tennessee Code Annotated, Title 69, Chapter 3, Part 1, relative to stop work orders issued when certain silvicultural activities have polluted waters of the state as a result of an operator's or owner's failure or refusal to use forestry best management practices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Section 69-3-103 is amended by adding the following:

() "forestry best management practices" means those land and water resource conservation measures that prevent, limit, or eliminate water pollution which for forest resource management purposes are defined in rules hereinafter promulgated in accordance with Tennessee Code Annotated, Section 11-4-301(d)(18).

() "silvicultural activities" means those forest management activities associated with the harvesting of timber and including without limitation the construction of roads and trails, and the preparation of property for reforestation.

() "operator" means any person(s) that conducts or exercises control over any silvicultural activities.

()“owner” means any person(s) that owns or leases land on which silvicultural activities occur or owns timber on land on which silvicultural activities occur.

()“stop work order” means an order issued by the commissioner of environment and conservation requiring the owner or operator to immediately cease part or all silvicultural activities.

SECTION 2. Tennessee Code Annotated Title 69, Chapter 3, Part 1 is amended by adding the following new section:

Section \_\_\_\_\_. When certain silvicultural activities have polluted waters of the state as a result of an operator’s or owner’s failure or refusal to use forestry best management practices, the commissioner of environment and conservation may issue a stop work order. The stop work order requires that the owner or operator must cease part or all of the silvicultural activities on site that are contributing to such pollution. The stop work order will remain in effect until the owner or operator installs forestry best management practices that eliminate and prevent further pollution associated with the silvicultural activities. No stop work order may be issued or suspended without consultation with the commissioner of agriculture.

SECTION 3. Tennessee Code Annotated Title 69, Chapter 3, Part 1 is further amended by adding the following language as a new section to be appropriately designated:

Section \_\_\_\_\_. At least thirty (30) days prior to the start of silvicultural activities any owner or operator who, at any time within the previous two (2) years, has been found to have violated this part, such finding of violation not having been overturned or reversed on appeal, shall be deemed a bad actor and shall file a written notification with the commissioner of agriculture and the commissioner of conservation and environment including the following information:

- (1) The name and address of the owner and, if different than the owner, the operator;

- (2) The location of the silvicultural activities and estimated acreage; and
- (3) The beginning date and anticipated length of the silvicultural activities.

SECTION 4. Tennessee Code Annotated Title 69, Chapter 3, Part 1 is further amended by adding the following language as a new section to be appropriately designated:

Section\_\_\_\_. A written request for a hearing on the stop work order must be filed by the owner or operator to the commissioner of environment and conservation within ten (10) days of receipt of notice. If a hearing is requested, it shall be commenced within three (3) working days and a decision rendered at the conclusion of the hearing. If no request for hearing is made within ten (10) days of the receipt of notice, the order of suspension becomes final and not subject to review. The hearings provided for in this part shall be conducted by the commissioner of environment and conservation in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Appeals from any final decision after a hearing shall be pursued in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. Tennessee Code Annotated Title 69, Chapter 3, Part 1 is further amended by adding the following language as a new section:

Section\_\_\_\_. Failure of an owner or operator to comply with a stop work order shall be subject to the penalties in Tennessee Code Annotated, §69-3-115(a)(1)(E).

SECTION 6. The water quality control board will promulgate rules to implement the purposes of this act including criteria and procedures for issuance of a stop work order. No stop work order shall be issued prior to the promulgation of such rules. The commissioner shall not delegate his or her authority to issue stop work orders except in accordance with such rules. The proposed rules will be presented to the water quality control board for consideration no later than September 1, 2000.

SECTION 7. Notwithstanding any provisions of this act to the contrary, Tennessee Code Annotated, Section 69-3-120(g) will apply.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.